

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 92 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

JAWANSING BALUSING THROUGH HIS WIFE BHALIBEN JAWANSING
Versus
STATE OF GUJARAT

Appearance:
MS SUBHADRA G PATEL for Petitioner
MS HANSA B PUNANI, A.P.P. for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE
Date of decision: 09/02/2000

ORAL JUDGEMENT

#. Rule. Ms.Hansa B. Punani waives service of Rule on
behalf of Respondents.

#. In compliance of the order of this court dated 7th
February, 2000, the District Magistrate, Vadodara, is

present in the court. He has ben made to know for what he has been called in the court.

#. The petitioner is praying for grant of parole leave of 45 days for the marriage of his daughter which is fixed on 21st February, 2000. The application made by him for parole leave came to be rejected on two grounds out of which one ground is wholly irrelevant. For late surrender at earlier time, the petitioner has been adequately punished. This happened in the year 1990 and thereafter he was granted parole / furlough leaves and all the time he surrendered in time. So far as other ground is concerned, that the family of the complainant's side is residing very near there is all possibility of breach of peace, this ground though is mentioned, the District Magistrate, Vadodara, appears to have acted only on the basis of some report submitted before him by the 'Babu'. He has to record his own satisfaction on the basis of the material that in case the petitioner is released on parole leave, there is all the possibility of breach of peace. Merely on this stray phrase used, it cannot be taken to be a ground for declining parole leave application of the petitioner.

#. The order dated 1.2.2000 of the District Magistrate, Vadodara, is quashed and set aside and he is directed to decide the application of the petitioner afresh in accordance with law and keeping in view the observations made in this judgment, within two days from the date of receipt of writ of this order or certified copy thereof, whichever is earlier. Rule and special criminal application stand disposed of accordingly with no order as to costs.

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[sunil]